

[Counsel Listed on Signature Pages]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

In re JDSU UNIPHASE CORPORATION
SECURITIES LITIGATION

Master File No. C-02-1486 CW (EDL)

This Document Relates To:

ALL ACTIONS

**ORDER GRANTING AS MODIFIED
STIPULATION REGARDING TRIAL
DATE, PRETRIAL CONFERENCE,
AND PRETRIAL SUBMISSIONS AND
DEADLINES**

1 WHEREAS, the trial of this action is currently scheduled on October 1, 2007;

2 WHEREAS, the parties have met and conferred regarding various scheduling issues
3 presented by the current trial date, including Defendant Jozef Straus's inability to be present for
4 several days due to the observance of a religious holiday and the Court's unavailability the
5 majority of the first three weeks of October;

6 WHEREAS, in light of these scheduling issues and in the interest of the efficient conduct
7 of the trial, the parties agree that the trial date should be continued to October 22, 2007;

8 WHEREAS, the pretrial conference is currently scheduled for September 14, 2007, at 1:30
9 p.m.

10 WHEREAS, the parties have met and conferred regarding the fact that the pretrial
11 conference is currently scheduled during the Rosh Hashanah holiday;

12 WHEREAS, in light of the conflict with a religious holiday and the proposal that the trial
13 date be continued to October 22, 2007, the parties agree that the pretrial conference should be
14 continued to September 26, 2007, at 10:00 a.m., or to another time that is convenient for the
15 Court;

16 WHEREAS, the Court's Order for Pretrial Preparation requires that counsel exchange the
17 material described in Northern District Civil Local Rule 16-10(b)(7), (8), (9) and (10), as well as
18 the parties' motions *in limine* no less than 30 days prior to the pretrial conference;

19 WHEREAS, given the complexity of the factual and legal issues underlying this litigation
20 and the anticipated volume of material to be exchanged, as well as the proposals to continue the
21 pretrial conference and the trial date, the parties have engaged in extensive good-faith
22 negotiations and reached agreements on several matters that implicate the Court's Order for
23 Pretrial Preparation;

24 WHEREAS, the parties agree that the Court's Pretrial Order should be modified to
25 facilitate the efficient and orderly exchange of pretrial material and for the convenience of the
26 Court as well as the parties;

27 WHEREAS, the Court's July 26 Minute Order provides that *Daubert* motions are to be
28 briefed on the same schedule as the parties' motions *in limine*; and

1 WHEREAS, the Court's Order for Pretrial Preparation, which incorporates Civil Local
 2 Rule 16-10(b)(7) regarding "exhibits and other trial material, including copies of all exhibits to be
 3 offered and all schedules, summaries, diagrams and charts to use at the trial other than for
 4 impeachment or rebuttal," can be interpreted to require that the parties exchange demonstrative
 5 exhibits 30 days prior to the final pretrial conference.

6 IT IS HEREBY STIPULATED by and between the parties, through their counsel of
 7 record, that:

8 1. The trial date shall be continued to October 22, 2007.
 9 2. The pretrial conference shall be continued to September 26, 2007, at 10:00 a.m., or
 10 to another time that is convenient for the Court.

11 3. On August 24, the parties shall exchange the following material in accordance
 12 with the Court's Order for Pretrial Preparation:

- 13 • Trial exhibit lists;
- 14 • Deposition designations;
- 15 • Written discovery designations;
- 16 • Proposed voir dire questions;
- 17 • Proposed jury instructions;
- 18 • Proposed verdict forms; and
- 19 • Motions *in limine*.

20 4. On August 28, the parties shall exchange pre-marked trial exhibits by overnight
 21 mail. Plaintiffs shall label their exhibits within the number range "Plaintiffs 1" through
 22 "Plaintiffs 999." Defendants shall label their exhibits beginning with the number "Defendants
 23 1000."

24 5. On August 30, the parties shall exchange their proposed inserts for the Joint
 25 Pretrial Conference Statement.

26 6. On August 31, the parties shall exchange witness lists.

27 7. On September 14, the parties shall file and serve all documents required by
 28 Paragraph 3 of the Court's Order for Pretrial Preparation.

1 8. On September 19, the parties shall file and serve oppositions to motions *in limine*.

2 9. Plaintiffs and Defendants shall each have a single 35-page brief to raise all
3 *Daubert* issues as well as a single 35-page brief for their respective oppositions. There will be no
4 reply briefing. The parties shall file opening *Daubert* briefs on August 28 and opposition briefs
5 on September 19.

6 10. The following schedule shall apply to govern the parties' exchange of
7 demonstrative exhibits:

- 8 • Opening demonstrative exhibits shall be exchanged one week before the
9 final pretrial conference, provided that the parties can supplement or revise
10 demonstratives for opening argument based on any rulings that occur after
11 the exchange;
- 12 • The parties experts' demonstrative exhibits shall be exchanged one week
13 prior to trial;
- 14 • Closing demonstrative exhibits shall be exchanged two days prior to
15 summation, provided that the parties can supplement or revise
16 demonstratives for closing arguments based on any testimony or rulings
17 that occur after the exchange.
- 18 • Any supplemental or revised demonstratives shall be exchanged as soon as
19 possible after the close of testimony or after the rulings.¹

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25 ¹ It is the position of Defendant Kevin Kalkhoven that the Court should order the
26 exchange of materials, such as trial exhibits and demonstratives, on a phased schedule, in which
27 plaintiffs' exhibits and demonstratives are exchanged before defendants' exhibits and
28 demonstratives are exchanged. Counsel for Mr. Kalkhoven will write the Court separately to
raise this issue.

1
2 Dated: August 14, 2007

MORRISON & FOERSTER LLP

3
4 By: /s/ Philip T. Besirof
Philip T. Besirof

5 Attorneys for Defendants
6 JDS Uniphase Corporation, Jozef
7 Straus, Anthony R. Muller, and Charles
J. Abbe

8 Dated: August 14, 2007

HELLER EHRMAN LLP

9
10 By: /s/ Howard S. Caro
Howard S. Caro

11 Attorneys for Defendant
12 Kevin Kalkhoven

13
14 Dated: August 14, 2007

LABATON SUCHAROW & RUDOFF LLP

15 BERMAN DEVALERIO PEASE TABACCO
16 BURT & PUCILLO

17 By: /s/ Anthony J. Harwood
18 Anthony J. Harwood

19 Liaison Counsel for Lead Plaintiff
20 Connecticut Retirement Plans and Trust
21 Funds

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23 PURSUANT TO STIPULATION, IT IS SO ORDERED, **EXCEPT THE PRETRIAL**
24 **CONFERENCE WILL BE HELD ON SEPTEMBER 25, 2007, AT 2:00 P.M.**

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26 Dated: August 24, 2007



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HONORABLE CLAUDIA WILKEN
United States District Court Judge